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VIA ECF

The Honorable Taryn A. Merkl
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Trooper 1 v. Cuomo, et al.; Case No. 22 Civ. 00893 (LDH) (TAM)

Dear Judge Merkl:

A female trooper relayed a concern that she found disturbing, and so do I. . . .

This female trooper was getting married, and I made some jokes about the negative consequences of married life. I meant it to be humorous. She was offended, and she was right. . . .

The trooper also said that in an elevator I touched her back and when I was walking past her in a doorway I touched her stomach. Now I don't recall doing it, but if she said I did it, I believe her. . . . It was a mistake, plain and simple. I have no other words to explain it. I want to personally apologize to her and her family. I have the greatest respect for her and for the New York State Police.

-Former Governor Andrew Cuomo on National TV

Cuomo is a person who says whatever the moment requires of him. Once, that meant apologizing to Trooper 1 before millions of TV viewers and saying that he believed her and her accusations. Now, it means calling her a liar and accusing her of participating in a grand political conspiracy against him.

After issuing this public apology on national TV, our client, Trooper 1, sued Governor Cuomo over conduct that, to a great extent, he had already admitted to. Since then, with the cameras pointed away, Governor Cuomo has used the court system and the public docket to calumniate our client; shame the witnesses against him; and pursue abusive discovery. In doing so, he has

continuously flouted this Court's meet and confer requirement in a way that no other party or non-party has.

Now, he has raised a discovery issue to the Court, again flouting the meet and confer requirement. Had he called or emailed us, he would know (a fact we have confirmed several times already) that Trooper 1 does not have these older texts with Mr. Nevins in her possession. This is a fact we checked and double-checked, as previously memorialized in a letter to the Court. Ltr. at Dkt. No. 61 ("Governor Cuomo sought to confirm that Trooper 1 does not have any text messages related to her claims, including text messages concerning the conditions of her employment by the NYSP. We indicated that Trooper 1 had searched her phone and had confirmed she had no responsive communications. Subsequent to the meet and confer, we reconfirmed with our client that Trooper 1 does not have responsive text messages.")¹

As that letter indicated, Governor Cuomo intended to serve interrogatories on this topic. He did. In her responses to these interrogatories, Trooper 1 properly disclosed Steven Nevins as a "person[] with whom [she] communicated . . . concerning . . . the OAG Investigation, OAG Report, AJC, Investigation [or] AJC Report."² Indeed, this timely, accurate and honest disclosure is the reason Cuomo knew to subpoena Nevins to begin with. In her Interrogatory Responses, Trooper 1 also confirmed once again that she had disclosed all responsive communications on her iPhone, the only phone in her possession.

In sum, as we have disclosed several times, and as we now reiterate here, Trooper 1 has produced all responsive texts in her possession and has served Rule 34-compliant responses confirming that she is not withholding any document due to an objection. That Cuomo would continue to accuse Trooper 1 of lying at this point is reprehensible and abusive of the immunity conferred upon documents filed on the public docket.

There are too many lies and distortions in this letter for Trooper 1 to rebut outside of the formal briefing process, and, to the extent the Court intends to use the material in this recent letter to decide any of the upcoming motions, Trooper 1 hereby requests a chance to formally respond to the accusations, lies and distortions therein in supplemental briefing. It is, in short, remarkable that Cuomo could spin these texts as somehow favorable to his positions in this case. These texts invariably show Trooper 1 grappling with the pressure of having come forward against an institutional (and, as Cuomo has demonstrated by abusing the legal system in this litigation, societal) culture dead-set on shaming women who come forward. Nevins told Trooper 1 to "do the right thing and tell the truth." She said, about her testimony that she had "told [her] truth."

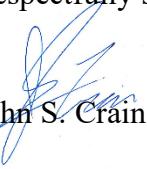
¹ Her texts with Diane Parrotta post-dated this correspondence and were duly disclosed as soon as counsel became aware of them. These texts were not "belatedly produced."

² This was the phrasing of Cuomo's Interrogatory.

She said she hoped “Tish James” would “do[] the right thing,” to which Nevins responded “Strong people, like you, stood up and did the right thing.” These are clearly texts between a victim seeking support and a senior Trooper giving that support. That Trooper 1 said other negative things about Cuomo, or wished for a return to leadership that would not casually permit sexual harassment on the PSU, is not surprising, and it is not proof of a conspiracy.

More to the legal point that is at issue (as far as can be discerned from Cuomo’s winding correspondence), these texts have nothing to do with the phone records Cuomo seeks. Nor does Cuomo provide any evidence that “Nevins set the stage, helped craft the story, and deployed his PSU puppets—including Trooper 1—to enact the drama” Calling Trooper 1 a “puppet” for coming forward to report sexual harassment is just another example of the sad abuse that women must endure for coming forward. Now, Trooper 1 is not just a liar, according to Cuomo, she is a brainless non-entity and a pawn in the hands of the men around her. And, we continue to object to the distortion about how and why Trooper 1 and Diane Parrotta communicated this year. Cuomo maintains that “Parrotta sought to coordinate with Trooper 1 prior to Parrotta’s deposition.” That is not what these texts convey. The texts also clearly show that Trooper 1 refused to engage Parrotta and did not respond to any of Parrotta’s requests to speak about the deposition. It is astonishing that Cuomo would continue to claim a conspiracy based on these messages.

Respectfully submitted,



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